



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

October 25, 2002

The Honorable Richard B. Cheney
President of the Senate
United States Senate
Washington, DC 20510

Dear Mr. President:

I am pleased to transmit for introduction and referral to the appropriate committees a bill

"To authorize appropriations for fiscal year 2003 for the United States Coast Guard, and for other purposes."

This legislative proposal, entitled the "Coast Guard Authorization Act of 2002," implements the President's Budget Request for fiscal year 2003. It supports the Coast Guard's recapitalization of vessels and aircraft fleets, information resource management systems, shore facilities, and aids to navigation, in addition to providing resources necessary for day-to-day Coast Guard operations. The requested \$750 million authorization for acquisition, construction, and improvements would allow the Coast Guard to continue its deepwater capability replacement by funding the initial phase of the full production contracts for the development of an integrated system of assets to carry out Coast Guard's deepwater missions.

This proposed Coast Guard authorization legislation would improve Coast Guard personnel management, improve financial and property management, and enhance law enforcement and marine safety and environmental protection.

As you are aware, a Coast Guard Authorization Act has not been enacted since 1998. The U.S. Department of Transportation considers enactment of a Coast Guard Authorization Act to be one of its top legislative priorities. I greatly appreciate the Senate's efforts in the past and ask for your support in achieving enactment of this proposal.

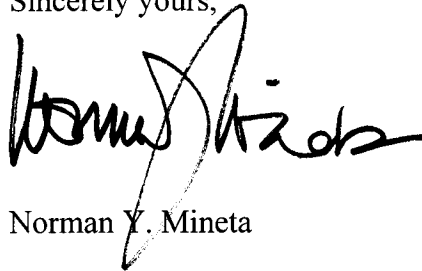
Title I fulfills the President's Budget Request by authorizing the funds and personnel levels necessary for the Coast Guard to conduct its vital missions, such as search and rescue, illegal drug and migrant interdiction, environmental protection, promotion of safe and efficient commercial navigation, fisheries enforcement, and national defense, while serving the public as efficiently and economically as possible. Title II significantly enhances Coast Guard personnel management and improves the Coast Guard's ability to efficiently manage its financial and property resources. Title III promotes law enforcement, marine safety, and environmental protection. Provisions contained in Title III will strengthen protections for recreational boaters by increasing the recall period for recreational vessels and associated equipment and enhancing the penalties for violating boating safety standards for failing to follow statutory recall

provisions. Title IV would amend the statutes governing seven Coast Guard advisory committees to extend their termination dates and to clarify the coordination role of the Commandant in the appointment of their members.

The Office of Management and Budget has advised that there is no objection, from the standpoint of the Administration's program, to the submission of this proposed legislation to Congress, and that its enactment would be in accord with the President's program.

I recommend that the proposed legislation be enacted by Congress.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Norman Y. Mineta", with a large, stylized flourish extending from the end of the signature.

Norman Y. Mineta

2 Enclosures

Identical letter to the Speaker of the House

Draft Bill (bill text, comparative type, and section-by-section analysis)



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

October 25, 2002

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Speaker of the House of Representatives
Washington, DC 20515

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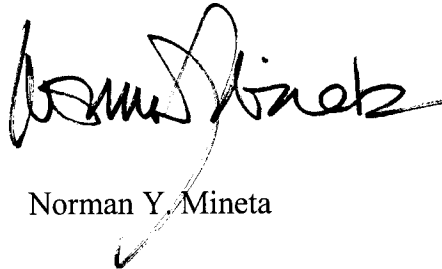
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Norman Y. Mineta

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Identical letter to the President of the Senate

Draft Bill (bill text, comparative type, and section-by-section analysis)

A BILL

To authorize appropriations for fiscal year 2003 for the United States Coast Guard, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 2002".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

1. Short title.
2. Table of Contents.

TITLE I – AUTHORIZATION

101. Authorization of Appropriations.
102. Authorized Levels of Military Strength and Training.
103. Caribbean Support Tender.

TITLE II – COAST GUARD PERSONNEL, FINANCIAL, AND PROPERTY

MANAGEMENT

201. Enlisted Member Critical Skill Training Bonus.
202. Reserve Student Pre-Commissioning Assistance Program.
203. Accelerated Promotion of Certain Coast Guard Officers.
204. Reserve Officer Promotions.
205. Regular Lieutenant Commanders and Commanders; Continuation upon Failure of Selection for Promotion.

- 206. Continuation on Active Duty Beyond Thirty Years.
- 207. Align Coast Guard Severance Pay and Revocation of Commission Authority With Department of Defense Authority.
- 208. Amend Limits to the Number and Distribution of Officers.
- 209. Coast Guard Band Director Rank.
- 210. Compensatory Absence for Isolated Duty.
- 211. Extension of Coast Guard Housing Authorities.
- 212. Expansion of Coast Guard Housing Authorities.
- 213. Property Owned by Auxiliary Units and Dedicated Solely for Auxiliary Use.
- 214. Coast Guard Auxiliary Units as Instrumentalities of the U.S. for Taxation Purposes.
- 215. Payment of Death Gratuities on Behalf of Coast Guard Auxiliarists.
- 216. Clarification of Coast Guard Exchange System Exemption.
- 217. Long-Term Lease Authority for Lighthouse Property.
- 218. Administrative, Collection, and Enforcement Costs for Certain Fees and Charges.

TITLE III - LAW ENFORCEMENT, AND MARINE SAFETY AND ENVIRONMENTAL PROTECTION

- 301. Marking of Underwater Wrecks.
- 302. Ports and Waterways Partnerships/Cooperative Ventures.
- 303. Reports from Charterers.
- 304. Vessel Response Plans for Non-Tank Vessels Over 400 Gross Tons.

- 305. Addition of Noxious Liquid Substances to the List of Hazardous Substances for which the Coast Guard May Require a Response Plan.
- 306. Revision of Temporary Suspension Criteria in Suspension and Revocation (S&R) Cases.
- 307. Revision of Bases for Suspension and Revocation (S&R) Cases.
- 308. Removal of Mandatory Revocation for Proved Drug Convictions in Suspension and Revocation (S&R) Cases.
- 309. Deletion of Thumbprint Requirement for Merchant Mariners' Documents.
- 310. Records of Merchant Mariner's Documents.
- 311. Merchant Mariner Documentation Requirements.
- 312. Electronic Filing of Commercial Instruments for Vessels.
- 313. Temporary Certificates of Documentation for Recreational Vessels.
- 314. Exemption of Unmanned Barges from Certain Citizenship Requirements.
- 315. Wing-In-Ground Craft.
- 316. Marine Casualty Investigations Involving Foreign Vessels.
- 317. Commercial Fishing Vessel Mandatory Examination Requirements.
- 318. Marine Industry and Other Exchange Programs.
- 319. Maritime Drug Law Enforcement Act Amendments.
- 320. Extension of Territorial Sea for Vessel Bridge-to-Bridge Radiotelephone Act.
- 321. Penalties for Negligent Operations and Interfering with Safe Operation.
- 322. Increase in Civil Penalties for Violations of Certain Bridge Statutes.

- 323. Civil Penalties for Failure to Comply with Recreational Vessel and Associated Equipment Safety Standards.
- 324. Extension of Time for Recreational Vessel and Associated Equipment Recalls.
- 325. Oil Spill Liability Trust Fund; Emergency Fund Advancement Authority.
- 326. Oil Spill Liability Trust Fund; Emergency Fund.
- 327. Removal of Abandoned Barges.
- 328. Use of Unexpended Funds for Bridge Alterations Under Truman-Hobbs Act.
- 329. Law Enforcement Powers.
- 330. Navigation Assistance User Fees.
- 331. Correction to Definition of Federal Law Enforcement Agencies in the Enhanced Border Security and Visa Entry Reform Act Of 2002.

TITLE IV – RENEWAL OF ADVISORY GROUPS

- 401. Commercial Fishing Industry Vessel Advisory Committee.
- 402. Houston-Galveston Navigation Safety Advisory Committee.
- 403. Lower Mississippi River Waterway Advisory Committee.
- 404. Great Lakes Pilotage Advisory Committee.
- 405. Navigation Safety Advisory Council.
- 406. National Boating Safety Advisory Council.
- 407. Towing Safety Advisory Committee.

TITLE I--AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

AUTHORIZATION FOR FISCAL YEAR 2003.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 2003 as follows:

(a) For the operation and maintenance of the Coast Guard, \$4,635,268,000, of which \$25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(b) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, \$735,846,000, to remain available until expended, of which \$20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(c) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, \$23,106,000, to remain available until expended, of which \$3,500,000 shall be derived from the Oil Spill Liability Trust Fund.

(d) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, \$935,000,000, to remain available until expended.

(e) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), \$17,286,000, to remain available until expended.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) END-OF-YEAR STRENGTH FOR FISCAL YEAR 2003.—The Coast Guard is authorized an end-of-year strength of active duty personnel of 41,000 as of September 30, 2003.

(b) TRAINING STUDENT LOADS FOR FISCAL YEAR 2003.—For fiscal year 2003, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,250 student years.

(2) For flight training, 125 student years.

(3) For professional training in military and civilian institutions, 300 student years.

(4) For officer acquisition, 1,150 student years.

SEC. 103. CARIBBEAN SUPPORT TENDER.

(a) The Coast Guard is authorized to operate and maintain a Caribbean Support Tender (or similar type of vessel) to provide technical assistance, including law enforcement training, for foreign coast guards, navies, and other maritime services.

(b)(1) The Commandant may provide medical and dental care to foreign military Caribbean Support Tender personnel and their dependents accompanying them in the United States—

(A) on an outpatient basis without cost; and

(B) on an inpatient basis, provided that the United States shall be reimbursed for the costs of providing such care. Payments received as reimbursement for the provision of such care shall be credited to the appropriations against which the charges were made for the provision of such care.

(2) Notwithstanding paragraph (1)(B), the Commandant may provide inpatient medical and dental care in the United States without cost to foreign military Caribbean Support Tender personnel and their dependents accompanying them in the United States if comparable care is made available to a comparable number of United States military personnel in that foreign country.

TITLE II—COAST GUARD PERSONNEL, FINANCIAL, AND PROPERTY MANAGEMENT

SEC. 201. ENLISTED MEMBER CRITICAL SKILL TRAINING BONUS.

(a) Chapter 13 of title 14, United States Code, is amended by inserting after section 373 the following new section:

“§ 374. Critical skill training bonus

“(a) The Secretary may provide a bonus, not to exceed \$20,000, to enlisted members who complete training in a skill designated as critical, provided at least four years of obligated active service remain on the member’s enlistment at the time the training is completed. A bonus under this section may be paid in a single lump sum or in periodic installments.

“(b) If an enlisted member voluntarily or because of misconduct does not complete his or her term of obligated active service, the Secretary may require the

member to repay the United States, on a pro rata basis, all sums paid under this section. The Secretary shall charge interest on the reimbursed amount at a rate, to be determined quarterly, equal to 150 percent of the average of the yields on the 91-day Treasury bills auctioned during the preceding calendar quarter. ”.

(b) The analysis at the beginning of chapter 13 of title 14, United States Code, is amended by adding the following new item after the item relating to section 373:

“374. Critical skill training bonus.”

SEC. 202. RESERVE STUDENT PRE-COMMISSIONING ASSISTANCE PROGRAM.

(a) Chapter 21 of title 14, United States Code, is amended by inserting after section 709 the following new section:

“§ 709a. Reserve student pre-commissioning assistance program

“(a) The Secretary may provide financial assistance to an eligible enlisted member of the Coast Guard Reserve, not on active duty, for expenses of the member while the member is pursuing on a full-time basis at an institution of higher education a program of education approved by the Secretary that leads to—

“(1) a baccalaureate degree in not more than five academic years; or

“(2) a post-baccalaureate degree.

“(b)(1) To be eligible for financial assistance under this section, an enlisted member of the Coast Guard Reserve must—

“(A) be enrolled on a full-time basis in a program of education referred to in subsection (a) at any institution of higher education; and

“(B) enter into a written agreement with the Coast Guard described in paragraph (2).

“(2) A written agreement referred to in paragraph (1)(B) is an agreement between the member and the Secretary in which the member agrees—

“(A) to accept an appointment as a commissioned officer in the Coast Guard Reserve, if tendered;

“(B) to serve on active duty for up to five years; and

“(C) under such terms and conditions as shall be prescribed by the Secretary, to serve in the Coast Guard Reserve until the eighth anniversary of the date of the appointment.

“(c) Expenses for which financial assistance may be provided under this section are—

“(1) tuition and fees charged by the institution of higher education involved;

“(2) the cost of books;

“(3) in the case of a program of education leading to a baccalaureate degree, laboratory expenses; and

“(4) such other expenses as deemed appropriate by the Secretary.

“(d) The amount of financial assistance provided to a member under this section shall be prescribed by the Secretary, but may not exceed \$25,000 for any academic year.

“(e) Financial assistance may be provided to a member under this section for up to five consecutive academic years.

“(f) A member who receives financial assistance under this section may be ordered to active duty in the Coast Guard Reserve by the Secretary to serve in a

designated enlisted grade for such period as the Secretary prescribes, but not more than four years, if the member—

“(1) completes the academic requirements of the program and refuses to accept an appointment as a commissioned officer in the Coast Guard Reserve when offered;

“(2) fails to complete the academic requirements of the institution of higher education involved; or

“(3) fails to maintain eligibility for an original appointment as a commissioned officer.

“(g)(1) If a member requests to be released from the program and the request is accepted by the Secretary, or if the member fails because of misconduct to complete the period of active duty specified, or if the member fails to fulfill any term or condition of the written agreement required to be eligible for financial assistance under this section, the financial assistance shall be terminated. The member shall reimburse the United States in an amount that bears the same ratio to the total cost of the education provided to such person as the unserved portion of active duty bears to the total period of active duty such person agreed to serve. The Secretary shall have the option to order such reimbursement without first ordering the member to active duty. The Secretary shall charge interest on the reimbursed amount at a rate, to be determined quarterly, equal to 150 percent of the average of the yields on the 91-day Treasury bills auctioned during the preceding calendar quarter.

“(2) The Secretary may waive the service obligated under subsection (f) of a member who is not physically qualified for appointment and who is determined to be

unqualified for service as an enlisted member of the Coast Guard Reserve due to a physical or medical condition that was not the result of the member's own misconduct or grossly negligent conduct.

“(3) The obligation to reimburse the United States imposed in this subsection is for all purposes a debt owed to the United States. A discharge of a person in bankruptcy under title 11, United States Code, that is entered less than five years after the date on which the person enters into the agreement described in subsection (b), does not discharge that person from a debt arising under this subsection.

“(h) As used in this section, institution of higher education has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).”.

(b) The analysis at the beginning of chapter 21 of title 14, United States Code, is amended by adding the following new item after the item relating to section 709:

“709a. Reserve student pre-commissioning assistance program.”

SEC. 203. ACCELERATED PROMOTION OF CERTAIN COAST GUARD OFFICERS.

Title 14, United States Code, is amended—

(1) in section 259, by adding at the end a new subsection (c) to read as follows:

“(c) After selecting the officers to be recommended for promotion, a selection board may recommend officers of particular merit, from among those officers chosen for promotion, to be placed at the top of the list of selectees promulgated by the Secretary under section 271(a) of this title. The number of officers that a board may recommend to be placed at the top of the list of selectees may not exceed the percentages set forth in

subsection (b). No officer may be recommended to be placed at the top of the list of selectees unless he or she receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.”;

(2) in section 260(a), by inserting “and the names of those officers recommended to be advanced to the top of the list of selectees promulgated by the Secretary under section 271(a) of this title” after “promotion”; and

(3) in section 271(a), by inserting at the end the following: “The names of all officers approved by the President and recommended by the board to be placed at the top of the list of selectees shall be placed at the top of the list of selectees in the order of seniority on the active duty promotion list.”.

SEC. 204. RESERVE OFFICER PROMOTIONS.

(a) Section 729(i) of title 14, United States Code, is amended by inserting “on the date a vacancy occurs, or as soon thereafter as practicable, in the grade to which the officer was selected for promotion, or if promotion was determined in accordance with a running mate system,” after “grade”.

(b) Section 731 of title 14, United States Coast Code, is amended by striking the period at the end of the sentence and inserting “, or in the event that promotion is not determined in accordance with a running mate system, then a Reserve officer becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he or she completes the following amount of service computed from the date of rank in the grade in which he or she is serving:

“(1) two years in the grade of lieutenant (junior grade);

“(2) three years in the grade of lieutenant;

“(3) four years in the grade of lieutenant commander;

“(4) four years in the grade of commander; and

“(5) three years in the grade of captain.”.

(c) Section 736(a) of title 14, United States Code, is amended by inserting “the date of rank shall be the date of appointment in that grade, unless the promotion was determined in accordance with a running mate system, in which event” after “subchapter,”.

SEC. 205. REGULAR LIEUTENANT COMMANDERS AND COMMANDERS;

CONTINUATION UPON FAILURE OF SELECTION FOR PROMOTION.

Section 285 of title 14, United States Code, is amended—

(1) by striking “Each officer” and inserting “(a) Each officer”; and

(2) by adding at the end the following new subsections:

“(b)(1) A lieutenant commander or commander of the Regular Coast Guard subject to discharge or retirement under subsection (a) may be continued on active duty when the Secretary directs a selection board convened under section 251 of this title to continue up to a specified number of lieutenant commanders or commanders on active duty. When so directed, the selection board shall recommend those officers who in the opinion of the board are best qualified to advance the needs and efficiency of the Coast Guard.

“(2) When the recommendations of the board are approved by the Secretary, the officers recommended for continuation shall be notified that they have been

recommended for continuation and offered an additional term of service that fulfills the needs of the Coast Guard.

“(c)(1) An officer who holds the grade of lieutenant commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 24 years of active commissioned service unless promoted to the grade of commander of the Regular Coast Guard. An officer who holds the grade of commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 26 years of active commissioned service unless promoted to the grade of captain of the Regular Coast Guard.

“(2) Unless retired or discharged under another provision of law, each officer who is continued on active duty under subsection (b) but is not subsequently promoted or continued on active duty, and is not on a list of officers recommended for continuation or for promotion to the next higher grade, shall, if eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which the period of continued service is completed.”.

SEC. 206. CONTINUATION ON ACTIVE DUTY BEYOND THIRTY YEARS.

Section 289 of title 14, United States Code, is amended by adding at the end the following:

“(h) Notwithstanding subsection (g) and section 288 of this title, the Commandant may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under subsection (g) or section 288 of this title. An officer so retained, unless retired under some other provision of law, shall be retired

on June 30 of that promotion year in which no action is taken to further retain the officer under this subsection. ”.

SEC. 207. ALIGN COAST GUARD SEVERANCE PAY AND REVOCATION OF
COMMISSION AUTHORITY WITH DEPARTMENT OF DEFENSE
AUTHORITY.

(a) Chapter 11 of title 14, United States Code, is amended—

(1) in section 281—

(A) by striking “three” in the section heading and inserting “five”;

and

(B) by striking “three” in the text and inserting “five”;

(2) in section 283(b)(2)(A), by striking “severance” and inserting
“separation”;

(3) in section 286—

(A) by striking “severance” in the section heading and inserting
“separation”; and

(B) by striking subsection (b) and inserting the following:

“(b) An officer of the Regular Coast Guard who is discharged under this section or section 282, 283, or 284 of this title and who has completed six or more, but less than twenty, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

“(c) An officer of the Regular Coast Guard who is discharged under section 327 of this title, who has completed six or more, but less than twenty,

continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10, as determined under regulations promulgated by the Secretary.

“(d) Notwithstanding subsections (a) or (b), an officer discharged under chapter 11 of this title for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer requested in writing or otherwise sought not to be selected for promotion, or requested removal from the list of selectees.”;

(4) in section 286a—

(A) by striking “severance” in the section heading and inserting “separation” in its place; and

(B) by striking subsections (a), (b), and (c) and inserting the following:

“(a) A regular warrant officer of the Coast Guard who is discharged under section 580 of title 10, and has completed six or more, but less than twenty, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

“(b) A regular warrant officer of the Coast Guard who is discharged under section 1165 or 1166 of title 10, and has completed six or more, but less than twenty, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10, as determined under regulations promulgated by the Secretary .

“(c) In determining a member’s years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.”; and

“(5) in section 327—

(A) by striking “severance” in the section heading and inserting “separation”;

(B) by striking subsection (a)(2) and inserting in its place the following:

“(2) for discharge with separation benefits under section 286(c) of this title.”;

(C) by striking subsection (a)(3);

(D) by striking subsection (b)(2) and inserting in its place the following:

“(2) if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged with separation benefits under section 286(c) of this title, unless under regulations promulgated by the Secretary the condition under which the officer is discharged does not warrant an honorable discharge.”; and

(E) by striking subsection (b)(3).

(b) The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended—

(1) in the item relating to section 281, by striking “three” and inserting “five” in its place;

(2) in the item relating to section 286, by striking “severance” and inserting “separation” in its place;

(3) in the item relating to section 286a, by striking “severance” and inserting “separation” in its place; and

(4) in the item relating to section 327, by striking “severance” and inserting “separation” in its place.

(c) The amendments made by paragraphs (2), (3), (4), and (5) shall take effect four years after the date of enactment of this Act, except that subsection (d), as amended in paragraph 3, shall take effect on enactment of this Act and shall apply with respect to conduct on or after that date. The amendments made to the table of sections in paragraphs (2), (3), and (4) shall take effect four years after the date of enactment of this Act.

SEC. 208. AMEND LIMITS TO THE NUMBER OF COMMANDERS AND LIEUTENANT COMMANDERS.

Section 42 of title 14, United States Code, is amended --

(1) in subsection (a), by striking “(a) The” and inserting in its place “(a) Except in time of war or national emergency declared by Congress or the President, the”, and by adding at the end the following new sentence: “In time of war or national emergency, the Secretary shall establish the total number of commissioned officers, excluding commissioned warrant officers, on active duty in the Coast Guard.”;

(2) in subsection (a), by striking “6,200” and inserting “7,100” in its place;
and

(3) in the first sentence of subsection (b), by striking “commander 12.0;
lieutenant commander 18.0.” and inserting in its place “commander 15.0;
lieutenant commander 22.0.”.

SEC. 209. COAST GUARD BAND DIRECTOR RANK.

Section 336(d) of title 14, United States Code, is amended by striking
“commander” and inserting “captain”.

SEC. 210. COMPENSATORY ABSENCE FOR ISOLATED DUTY.

(a) Section 511 of title 14, United States Code, is amended to read as follows:

**“Sec. 511. Compensatory absence from duty for military personnel at isolated
duty stations**

“The Secretary may prescribe regulations to grant compensatory absence from
duty to military personnel of the Coast Guard serving at isolated duty stations of the
Coast Guard when conditions of duty result in confinement because of isolation or in
long periods of continuous duty.”.

(b) The chapter analysis for chapter 13 of title 14, United States Code, is amended
by striking the item relating to section 511 and inserting the following:

**“511. Compensatory absence from duty for military personnel at isolated duty
stations.”.**

SEC. 211. EXTENSION OF COAST GUARD HOUSING AUTHORITIES.

Section 689 of title 14, United States Code, is amended by striking “2001” and inserting “2006”.

SEC. 212. EXPANSION OF COAST GUARD HOUSING AUTHORITIES.

(a) Section 680 of title 14, United States Code, is amended by adding at the end the following:

“(5) The term eligible entity means any private person, corporation, firm, partnership, company, State or local government, or housing authority of a State or local government.”.

(b) Section 682 of title 14, United States Code, is amended --

(1) by deleting the words “Loan guarantees” in the section heading and substituting the words “Direct loans and loan guarantees”;

(2) by redesignating subsections (a) and (b) as (b) and (c) respectively;

(3) by inserting a new subsection (a) at the beginning of the section to read as follows:

“(a) Direct Loans.—(1) Subject to subsection (c), the Secretary may make direct loans to an eligible entity in order to provide funds to the eligible entity for the acquisition or construction of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

“(2) The Secretary shall establish such terms and conditions with respect to loans made under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the period and frequency for repayment of such loans and the obligations of the obligors on such loans upon default.”;

(4) by deleting the phrase “subsection (b),” in the redesignated subsection (b) and inserting in its place “subsection (c),”; and

(5) in the redesignated subsection (c) by deleting the words “Loan guarantees and inserting the words “Direct loans and loan guarantees”;

(c) The chapter analysis for chapter 17 of title 14, United States Code, is amended by striking the item related to section 682 and inserting the following: “**682. Direct loans and loan guarantees.**”.

SEC. 213. PROPERTY OWNED BY AUXILIARY UNITS AND DEDICATED
SOLELY FOR AUXILIARY USE.

Section 821(a) of title 14, United States Code, is amended, in the second sentence, by adding at the end:

“, and the Auxiliary and each organizational element and unit shall be deemed to be instrumentalities and political subdivisions of the United States for taxation purposes and for those exemptions as provided under section 107 of title 4, United States Code.”.

SEC. 214. COAST GUARD AUXILIARY UNITS AS INSTRUMENTALITIES OF
THE UNITED STATES FOR TAXATION PURPOSES.

Section 821 of title 14, United States Code, is amended by adding at the end a new subsection to read as follows:

“(d) Subject to the approval of the Commandant—(1) The Coast Guard Auxiliary and each organizational element and unit (whether or not incorporated), shall have the power to acquire, own, hold, lease, encumber, mortgage, transfer, and dispose of personal property for the purposes set forth in section 822. Personal property owned by the Auxiliary or an Auxiliary unit, or any element thereof, whether or not incorporated, shall

at all times be deemed to be property of the United States for the purposes of the statutes enumerated in subsection (b)(1)-(6) while such property is being used by or made exclusively available to the Auxiliary as provided in section 822.

“(2) Personal property owned by the Auxiliary or an Auxiliary unit or any element or unit thereof, shall not be considered property of the United States for any other purpose or under any other provision of law except as provided in sections 821 through 832 and section 641 of this title. The necessary expenses of operation, maintenance and repair or replacement of such property may be reimbursed using appropriated funds.

“(3) For purposes of this subsection, personal property includes, but is not limited to, motor boats, yachts, aircraft, radio stations, motorized vehicles, trailers, or other equipment.”.

SEC. 215. PAYMENT OF DEATH GRATUITIES ON BEHALF OF COAST GUARD AUXILIARISTS.

Section 823a(b) of title 14, United States Code, is amended by inserting the following new paragraph following paragraph (8):

“(9) On or after January 1, 2001, Public Law 104-208, Section 651.”.

SEC. 216. CLARIFICATION OF COAST GUARD EXCHANGE SYSTEM EXEMPTION.

Section 487 of title 14, United States Code, is amended by adding at the end the following new sentence:

“ For purposes of the Randolph-Sheppard Act (20 U.S.C. 107d-3), Coast Guard exchange and ships’ stores systems shall be treated as though authorized by Title 10.”.

SEC. 217. LONG-TERM LEASE AUTHORITY FOR LIGHTHOUSE PROPERTY.

(a) Chapter 17 of title 14, United States Code, is amended by adding a new section 672a to read as follows:

“§ 672a. Long-term lease authority for lighthouse property

”(a) The Commandant of the Coast Guard may lease to non-Federal entities, including private individuals, lighthouse property under the administrative control of the Coast Guard for terms not to exceed thirty years. Consideration for the use and occupancy of lighthouse property leased under this section, and for the value of any utilities and services furnished to a lessee of such property by the Commandant, may consist, in whole or in part, of non-pecuniary remuneration including, but not limited to, the improvement, alteration, restoration, rehabilitation, repair, and maintenance of the leased premises by the lessee. This section shall apply to current leases of lighthouse property under the administrative control of the Coast Guard. Section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b) shall not apply to leases issued by the Commandant under this section.

(b) Amounts received from leases made under this section shall be deposited in the Treasury.”.

(b) The table of sections at the beginning of chapter 17, United States Code, is amended by adding after the item relating to section 672 the following:

“672a. Long-term lease authority for lighthouse property.”.

SEC. 218. ADMINISTRATIVE, COLLECTION, AND ENFORCEMENT

COSTS FOR CERTAIN FEES AND CHARGES.

(a) Section 2110(d) of title 46, United States Code, is amended by inserting at the end of paragraph (2) the following: "Costs of collecting the fee or charge include the

reasonable administrative, accounting, personnel, contract, equipment, supply, training, and travel expenses of calculating, assessing, collecting, enforcing, reviewing, adjusting, and reporting on the fees and charges."

(b) Section 664(b) of title 14, United States Code, is amended to read as follows:

"(b)(1) Fees and charges collected by the Secretary under this section shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities. In addition to the collection of fees and charges established under this section, the Secretary may recover appropriate collection and enforcement costs associated with delinquent payments of the fees and charges.

"(2) The Secretary may employ any Federal, State, or local agency or instrumentality, or any private enterprise or business, to collect a fee or charge established under this section. A private enterprise or business selected by the Secretary to collect fees or charges—

"(A) shall be subject to reasonable terms and conditions agreed to by the Secretary and the enterprise or business;

"(B) shall provide appropriate accounting to the Secretary; and

"(C) may not institute litigation as part of that collection.

"(3) A Federal agency shall account for the agency's costs of collecting the fee or charge as a reimbursable expense, and the costs shall be credited to the account from which expended. Costs of collecting the fee or charge include the reasonable administrative, accounting, personnel, contract, equipment, supply, training, and travel

expenses of calculating, assessing, collecting, enforcing, reviewing, adjusting, and reporting on the fees and charges."

TITLE III—LAW ENFORCEMENT, MARINE SAFETY, AND ENVIRONMENTAL PROTECTION

SEC. 301. MARKING OF UNDERWATER WRECKS.

Section 15 of the Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 409) is amended

--

(1) by striking "day and" and inserting in lieu thereof "day and, unless otherwise authorized by the Commandant of Coast Guard, "; and

(2) by striking "lighted lantern" and inserting in lieu thereof "light".

SEC. 302. PORTS AND WATERWAYS PARTNERSHIPS; COOPERATIVE VENTURES.

Section 4(a) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)), is amended by –

(1) striking "and" at the end of subparagraph (4);

(2) striking the period at the end of subparagraph (5) and inserting in its place " ; and"; and

(3) adding new paragraphs (6) and (7), to read as follows:

"(6) may carry out the functions under paragraph (a)(1) of this section, at the Secretary's discretion and on such terms and conditions as the Secretary deems appropriate, either solely, or in cooperation with a public or private agency, authority, association, institution, corporation, organization or persons. Such non-governmental entities shall not carry out an inherently governmental function. As used in this subparagraph, the term 'inherently governmental function' means any activity that is so

intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of judgment in making a decision for the Government;

“(7) may, for the purpose of carrying out the Secretary’s functions under paragraph (a)(1) of this section, convey or lease real property under the administrative control of the Coast Guard to public or private agencies, authorities, associations, institutions, corporations, organizations, or persons for such consideration and upon such terms and conditions as the Secretary considers appropriate. The term of any such lease shall not exceed 20 years.

“(A) Amounts collected under this paragraph shall be credited to a special fund in the U.S. Treasury and ascribed to the U.S. Coast Guard. The amounts collected shall be available to the U.S. Coast Guard’s ‘Operating Expenses’ account without further appropriation and without fiscal year limitation, and the amounts appropriated from the general fund for the ‘Operating Expenses’ account shall be reduced by the amounts so collected.

“(B) Any such conveyance or lease of real property under this paragraph is not subject to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.); section 321 of the Act of June 30, 1932 (47 Stat. 412, chapter 314; 40 U.S.C. 303b); or the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.).”.

SEC. 303. REPORTS FROM CHARTERERS.

Section 12120 of title 46, United States Code, is amended by striking “owners and masters” and inserting “owners, masters, and charterers ” in its place.

SEC. 304. VESSEL RESPONSE PLANS FOR NON-TANK VESSELS OVER 400 GROSS TONS.

(a) Section 1001 of the Oil Pollution Act of 1990, Pub. L. 101-380 (33 U.S.C § 2701) is amended—

(1) by redesignating definitions numbered (22) through (37) as (23) through (38) respectively, and

(2) inserting a new definition number (22) to read as follows:

“(22) non-tank vessel means a self-propelled vessel of 400 gross tons or greater, other than a tank vessel, which carries oil of any kind as fuel for main propulsion and that—

“(A) is a vessel of the United States; or

“(B) operates on the navigable waters of the United States;”.

(b) Section 4202(a)(6) of the Oil Pollution Act of 1990 , Pub. L. 101-380 (33 U.S.C. §1321(j)(5)) is amended—

(1) by inserting “, non-tank vessel,” in the heading for paragraph (5) after “vessel”;

(2) by inserting “, non-tank vessel,” in paragraph 5(A) after “vessel”;

(3) by inserting “, non-tank vessels,” in paragraph (5)(B) after “vessels”;

(4) in paragraph(5)(B), by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and inserting a new clause (ii) after clause (I) to read as follows

- “(ii) A non-tank vessel as defined under section 1001 of this Act.”;
- (5) by inserting “, non-tank vessel,” in paragraph (5)(D) after “vessel”;
- (6) by inserting “non-tank vessel,” in paragraph (5)(E) after “vessel,”;
- (7) by inserting “non-tank vessel,” in clause (i) of paragraph (5)(E), after “vessel,”;
- (8) by inserting “, non-tank vessel,” in paragraph (5)(F) after “vessel” everywhere it appears;
- (9) by inserting “non-tank vessel,” in paragraph (5)(G) after “vessel,”;
- (10) by inserting “and non-tank vessel” in paragraph (5)(H) after “each tank vessel”;
- (11) by striking “Not later than 2 years after the date of enactment of this section, the President shall require--” in the undesignated text following the heading of paragraph (6) and inserting in its place the text “The President may require--”;
- (12) by inserting in paragraph (6)(B) “, and non-tank vessels carrying oil of any kind as fuel for main propulsion,” after “cargo”; and
- (13) by inserting “, non-tank vessel,” in paragraph (7) after “vessel”.

SEC. 305. ADDITION OF NOXIOUS LIQUID SUBSTANCES TO THE LIST OF
HAZARDOUS SUBSTANCES FOR WHICH THE COAST GUARD MAY
REQUIRE A RESPONSE PLAN.

Section 4202(a)(6) of the Oil Pollution Act of 1990, Pub. L. 101-380 (33 U.S.C. § 1321(j)) is amended by --

(1) redesignating paragraphs (5)(B) through (5)(H) as (5)(C) through (5)(I) respectively;

(2) inserting a new paragraph (5)(B) after paragraph (5)(A) to read as follows:

“(B) The Secretary of the Department in which the Coast Guard is operating may issue regulations which require an owner or operator of a tank vessel, non-tank vessel, or facility described in subparagraph (C) to prepare and submit to the Secretary a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of a noxious liquid substance. For purposes of this paragraph, the term ‘noxious liquid substance’ shall have the same meaning as in the MARPOL Protocol defined in section 2(a)(3) of the Act to Prevent Pollution from Ships, Pub. L. 96-478, as that section may from time to time be amended.”;

(3) striking the phrase “subparagraph (B)” in paragraph (5)(A) and inserting in its place “subparagraph (C)”;

(4) striking the phrase “subparagraph (A)” in redesignated paragraph (5)(C) and inserting in its place “subparagraphs (A) and (B)”;

(5) striking the phrase “subparagraph (D)” in redesignated paragraph (5)(F)(i) and inserting in its place “subparagraph (E)”;

(6) striking the phrase “subparagraph (E)” in redesignated paragraph (5)(G) and inserting in its place “subparagraph (F)”;

(7) inserting “that handles, stores, or transports oil” after “onshore facility” in redesignated paragraph (5)(G).

SEC. 306. REVISION OF TEMPORARY SUSPENSION CRITERIA IN SUSPENSION AND REVOCATION (S&R) CASES.

Section 7702 of title 46, United States Code, is amended—

(1) in paragraph (d)(1) by striking “if, when acting under the authority of that license, certificate, or document—” and inserting “if—“ in its place

(2) in paragraph (d)(1)(B)(i), by inserting “, while acting under the authority of that license, certificate, or document,” after “has”;

(3) by striking “or” at the end of paragraph (d)(1)(B)(ii);

(4) by striking the period at the end of paragraph (d)(1)(B)(iii) and inserting in its place “; or”; and

(5) by adding a new paragraph (d)(1)(B)(iv) to read as follows:

“(iv) is a threat to the safety or security of a vessel or a public or commercial structure located within or adjacent to the marine environment.”.

SEC. 307. REVISION OF BASES FOR SUSPENSION & REVOCATION (S&R) CASES.

Section 7703 of title 46, United States Code, is amended—

(1) in paragraph (1)(B), by striking “incompetence”;

(2) by striking “or” at the end of paragraph (2);

(3) by striking the period at the end of paragraph (3) and inserting in its place “; or”; and

(4) by inserting new paragraphs (4) and (5) to read as follows:

“(4) has committed an act of incompetence; or

“(5) is a threat to the safety or security of a vessel or a public or commercial structure located within or adjacent to the marine environment.”.

SEC. 308. REMOVAL OF MANDATORY REVOCATION FOR PROVED DRUG
CONVICTIONS IN SUSPENSION & REVOCATION CASES.

Section 7704(b) of title 46, United States Code, is amended by inserting
“suspended or” after “shall be”.

SEC. 309. DELETION OF THUMBPRINT REQUIREMENT FOR MERCHANT
MARINER’S DOCUMENTS.

Section 7303 of title 46, United States Code, is amended by striking “the
thumbprint,”.

SEC. 310. RECORDS OF MERCHANT MARINERS’ DOCUMENTS.

Section 7319 of title 46, United States Code, is amended by striking “The records
are not open to general or public inspection.”.

SEC. 311. MERCHANT MARINER DOCUMENTATION REQUIREMENTS.

(a) Section 7302 of title 46, United States Code, is amended—

(1) by striking “A” in subsection (f) and inserting “Except as provided in
subsection (g), a”; and

(2) by adding at the end the following:

“(g)(1) The Secretary may, pending receipt and review of information required
under subsections (c) and (d), immediately issue an interim merchant mariner’s document
valid for a period not to exceed 120 days, to—

“(A) an individual to be employed as gaming personnel, entertainment
personnel, wait staff, or other service personnel on board a passenger vessel not
engaged in foreign service, who has no duties, including emergency duties,

related to the navigation of the vessel or the safety of the vessel, its crew, cargo, or passengers; or

“(B) an individual seeking renewal of, or qualifying for a supplemental endorsement to, a valid merchant mariner’s document issued under this section.

“(2) No more than one interim document may be issued to an individual under paragraph (1)(A) of this subsection.”.

(b) Section 8701(a) of title 46, United States Code, is amended--

(1) by striking “and” after the semicolon in paragraph (8);

(2) by redesignating paragraph (9) as paragraph (10); and

(3) by inserting after paragraph (8) the following:

“(9) a passenger vessel not engaged in a foreign voyage with respect to individuals on board employed for a total of not more than 30 service days within a 12-month period as entertainment personnel with no duties, including emergency duties, related to the navigation of the vessel or the safety of the vessel, its crew, cargo, or passengers; and”.

SEC. 312. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS FOR VESSELS.

Section 31321(a)(4) of title 46, United States Code, is amended --

(1) by striking “(A)”;

(2) by striking subparagraph (B).

SEC. 313. TEMPORARY CERTIFICATES OF DOCUMENTATION FOR RECREATIONAL VESSELS.

(a) Section 12103(a) of title 46, United States Code, is amended by inserting ", or a temporary certificate of documentation," after "certificate of documentation".

(b)(1) Chapter 121 of title 46, United States Code, is amended by adding after section 12103 a new section 12103a, as follows:

“§ 12103a. Issuance of temporary certificate of documentation by third parties

"(a) The Secretary may delegate, subject to the supervision and control of the Secretary and under terms established by regulation, to private entities determined and certified by the Secretary to be qualified, the authority to issue a temporary certificate of documentation for a recreational vessel, if the applicant for the certificate of documentation meets the requirements of sections 12102 and 12103 of this title.

"(b) A temporary certificate of documentation issued under section 12103(a) and subsection (a) of this section is valid for not more than 30 days from the date of issuance."

(2) The table of sections at the beginning of Chapter 121 of title 46, United States Code, is amended by inserting after the item relating to section 12103 the following:

“12103a. Issuance of temporary certificate of documentation by third parties.”.

SEC. 314. EXEMPTION OF UNMANNED BARGES FROM CERTAIN
CITIZENSHIP REQUIREMENTS.

(a) Section 12110(d) of title 46, United States Code, is amended by inserting “or an unmanned barge” after “recreational endorsement”.

(b) Section 12122(b)(6) of title 46, United States Code, is amended by inserting “or an unmanned barge” after “recreational endorsement”.

SEC. 315. WING-IN-GROUND CRAFT.

(a) Section 2101(35) of title 46, United States Code, is amended by inserting “a wing-in-ground craft, regardless of tonnage, carrying at least one passenger for hire, and” after the phrase “‘small passenger vessel’ means”.

(b) Section 2101 of title 46, United States Code, is amended by adding at the end the following:

“(48) ‘wing-in-ground craft’ means a vessel that is capable of operating completely above the surface of the water on a dynamic air cushion created by aerodynamic lift due to the ground effect between the vessel and the water’s surface.”.

SEC. 316. MARINE CASUALTY INVESTIGATIONS INVOLVING FOREIGN VESSELS.

Section 6101 of title 46, United States Code, is amended by —

(1) redesignating the second subsection (e) as subsection (f); and

(2) adding at the end the following new subsection:

“(g) Consistent with international law, this part applies to a foreign vessel involved in a marine casualty or incident, as defined in the International Maritime Organization Code for the Investigation of Marine Casualties and Incidents, where the United States is a Substantially Interested State and is, or has the consent of, the Lead Investigating State under the Code.”.

SEC. 317. COMMERCIAL FISHING VESSEL MANDATORY EXAMINATION REQUIREMENTS.

Section 4502 of title 46, United States Code, is amended by adding a new subsection (g) to read as follows:

“(g) In addition to the requirements described in subsection (f) of this section, and to ensure compliance with the requirements of this chapter, the Secretary may prescribe

regulations requiring periodic examination of other vessels to which this chapter applies.”.

SEC. 318. MARINE INDUSTRY AND OTHER EXCHANGE PROGRAMS.

Section 93 of title 14, United States Code, is amended by—

- (1) striking “and” from the end of paragraph (w);
- (2) striking the final period in paragraph (x) and inserting in its place “; and”; and
- (3) adding at the end the following new paragraph:

“(y) notwithstanding any other provision of law, establish a marine industry exchange program, and other employee exchange programs, under which the Coast Guard may accept the voluntary services of maritime industry and other employee exchange program participants, subject to the requirements that--

“(1) an individual performing voluntary services under this subsection shall not be considered a Federal employee except for purposes of chapter 81 of title 5, United States Code; chapter 11 of title 18, United States Code; chapter 171 of title 28, United States Code; and implementing regulations;

“(2) an individual performing voluntary services under this subsection shall neither decide nor personally or substantially participate in Coast Guard decisions that are likely to affect the commercial interest of the individual’s private-sector employer or any likely competitors of the individual’s private-sector employer; and

“(3) nothing in this subsection shall prevent the continuation of pay and other benefits from the individual’s private-sector employer or continued

participation in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by the individual's private-sector employer. As used in this subsection, 'private-sector employer' means the corporation or other person by which the individual was employed immediately before beginning to perform voluntary services in the maritime industry or other exchange program.”.

SEC. 319. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENTS.

(a) Section 3 of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903) is amended—

(1) in subsection (c)(1)(D) by striking “and”;

(2) in subsection (c)(1)(E) by striking “United States.” and inserting “United States; and”; and

(3) by inserting after paragraph (c)(1)(E) the following:

“(F) a vessel located in the contiguous zone of the United States, as defined in Presidential Proclamation 7219 of September 2, 1999, and (i) is entering the United States, (ii) has departed the United States, or (iii) is a hovering vessel as defined in 19 U.S.C. 1401(k).”.

(b) Section 4 of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1904) is amended—

(1) by inserting “(a)” before “Any property”; and

(2) by adding at the end the following:

“(b) Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an

offense under this chapter, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The following indicia, inter alia, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of an offense under this chapter:

“(1) the construction or adaptation of the vessel in a manner that facilitates smuggling, including:

“(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

“(B) the presence of any compartment or equipment which is built or fitted out for smuggling, not including items such as a safe or lock-box reasonably used for the storage of personal valuables;

“(C) the presence of an auxiliary tank not installed in accordance with applicable law, or installed in such a manner as to enhance the vessel’s smuggling capability;

“(D) the presence of engines that are excessively over-powered in relation to the design and size of the vessel;

“(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

“(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection;

“(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport;

“(2) the presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel;

“(3) the presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel’s stated purpose;

“(4) the operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation, and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities;

“(5) the failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed;

“(6) the declaration to government authority of apparently false information about the vessel, crew, or voyage, or the failure to identify the vessel by name or country of registration when requested to do so by government authority;

“(7) the presence of controlled substance residue on the vessel, on an item aboard the vessel, or on a person aboard the vessel, of a quantity or other nature which reasonably indicates manufacturing or distribution activity;

“(8) the use of petroleum products or other substances on the vessel to evade the detection of controlled substance residue; and

“(9) the presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.” .

SEC. 320. EXTENSION OF TERRITORIAL SEA FOR VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT.

Section 4(b) of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(b)), is amended by striking “United States inside the lines established pursuant to section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended” and inserting “United States, which includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988”.

SEC. 321. PENALTIES FOR NEGLIGENT OPERATIONS AND INTERFERING WITH SAFE OPERATION.

Section 2302(a) of title 46, United States Code, is amended by striking “\$1,000” and inserting “\$25,000”.

SEC. 322. INCREASE IN CIVIL PENALTIES FOR VIOLATIONS OF CERTAIN BRIDGE STATUTES.

(a) Section 5(b) of the Bridge Act of 1906 (33 U.S.C. 495) is amended by striking “\$1,000” and inserting “\$25,000”.

(b) Section 5(c) of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 18, 1894 (33 U.S.C. 499), is amended by striking “\$1,000” and inserting “\$25,000”.

(c) Section 18(c) of the Act entitled “An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, enacted March 3, 1899 (33 U.S.C. 502) is amended by striking “\$1,000” and inserting “\$25,000”.

(d) Section 510(b) of the General Bridge Act of 1946 (33 U.S.C. 533) is amended by striking “\$1,000” and inserting “25,000”.

SEC. 323. CIVIL PENALTIES FOR FAILURE TO COMPLY WITH

RECREATIONAL VESSEL AND ASSOCIATED EQUIPMENT SAFETY STANDARDS.

Section 4311 of title 46, United States Code, is amended—

(1) in subsection (b)—

(A) by striking the first sentence and inserting in its place:

“(1) A person violating section 4307(a) of this title is liable to the United States Government for a civil penalty of not more than \$5,000, except that the maximum civil penalty may be not more than \$250,000 for a related series of violations.”;

(B) in the second sentence, by striking “4307(a)(1)” and inserting
“4307(a)” in its place;

(C) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B),
respectively; and

(D) by adding at the end:

“(2) Any person, including, a director, officer, or executive employee of a corporation, who knowingly and willfully violates section 4307(a) of this title, shall be fined not more than \$10,000, imprisoned for not more than one year, or both.”; and

(2) in subsection (c), by striking “\$1,000” and inserting “\$5,000”.

SEC. 324. EXTENSION OF TIME FOR RECREATIONAL VESSEL AND
ASSOCIATED EQUIPMENT RECALLS.

Section 4310(c)(2) of title 46, United States Code, is amended in subparagraphs (A) and (B) by striking “5” wherever it appears and inserting “10” in its place.

SEC. 325. OIL SPILL LIABILITY TRUST FUND; EMERGENCY FUND
ADVANCEMENT AUTHORITY.

Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended by inserting after the first sentence “To the extent that such amount is not adequate, the Coast Guard may obtain an advance from the Fund for such amounts as may be necessary, up to a maximum of \$100,000,000, and within 30 days shall notify Congress of the advanced amount and the facts and circumstances necessitating the advance. Amounts advanced shall be repaid to the Fund, when, and to the extent that costs are recovered by the United States from responsible parties for the discharge or substantial threat of discharge.”.

SEC. 326. OIL SPILL LIABILITY TRUST FUND; EMERGENCY FUND.

Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended by deleting “\$50,000,000” and inserting “\$150,000,000”.

SEC. 327. REMOVAL OF ABANDONED BARGES.

(a) Section 4704(a) of title 46, United States Code, is amended to read as follows:

“(a)(1) The Secretary may remove an abandoned barge –

“(A) that is discharging or presents a substantial threat of a discharge of oil or a hazardous substance under section 311(c)(1) of the Federal Water Pollution Control Act; and

“(B) for which the Federal On-Scene Coordinator has made a determination that removal of the barge is necessary to eliminate the discharge or substantial threat of a discharge of oil or a hazardous substance.

“(2) Unless the Secretary determines that immediate removal is necessary, the Secretary must comply with the following procedures before removing the abandoned barge under subsection (a):

“(A) If the identity of the owner or operator can be readily determined, the Secretary shall notify the owner or operator by certified mail—

“(i) that if the barge is not removed, it will be removed at the owner’s or operator’s expense; and

“(ii) of the penalty under section 4703.

“(B) If the identity of the owner or operator cannot be readily determined, the Secretary shall publish an announcement that if the barge is not removed, it will be removed at the owner’s or operator’s expense in—

“(i) a notice to mariners; and

“(ii) an official journal of the county in which the barge is located.

“(3) The United States and any officer or employee of the United States is not liable to an owner or operator for damages resulting from removal of an abandoned barge under this chapter.”.

(b) Section 4704(c)(1) of title 46, United States Code, is amended to read as follows:

“(1) The Secretary may, after providing notice under subsection (a)(2), solicit by public advertisement sealed bids for the removal of an abandoned barge.

(c) Section 4704(c)(3) of title 46, United States Code, is amended to read as follows:

“(3) Unless the Secretary determines that immediate removal is necessary, removal of an abandoned barge may begin thirty days after the Secretary completes the procedures under subsection (a)(2).”.

SEC. 328 USE OF UNEXPENDED FUNDS FOR BRIDGE ALTERATIONS UNDER TRUMAN-HOBBS ACT.

Section 8 of the Act of June 21, 1940 (33 U.S.C. 518) is amended—

(1) by inserting “(a)” before the text of the section; and

(2) by adding at the end the following new subsection:

“(b) In addition to other uses permitted by law, upon completion of a bridge alteration project, unexpended funds previously appropriated or otherwise available for the completed project may be used to pay the Federal share of the design and construction costs for other bridge alteration projects authorized under this Act.”.

SEC. 329. LAW ENFORCEMENT POWERS.

(a) Title 14, United States Code, is amended by adding after section 95, a new section to read as follows:

“Sec. 95a. Law enforcement powers

“(a) Subject to guidelines approved by the Secretary and the Attorney General, members of the Coast Guard may, in the performance of official duties,--

"(1) carry firearms;

"(2) make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

"(3) seize property as provided by law.

"(b) The provisions of this section are in addition to any powers conferred by law upon such officers, and not in limitation of any powers conferred by law upon such officers, or any other officers of the United States."

(b) The table of sections at the beginning of chapter 5 of title 14, United States Code, is amended by inserting after the item relating to section 95 the following:

“95a. Law enforcement powers.”.

SEC. 330. NAVIGATION ASSISTANCE USER FEES

Section 2110 of title 46, United States Code is amended by amending subsection (b) to read as follows:

“(b)(1)(A) Commencing in fiscal year 2003 and in each fiscal year thereafter, the Secretary shall establish, assess, and collect not more than \$165 million in fiscal year 2003 and \$330 million each year thereafter, in fees or charges to offset the costs of navigation services provided by the Coast Guard. The master, owner, operator, agent, or charterer of each vessel of over 1600 gross tons engaged in commercial service shall pay, prior to entering port, a navigation

assistance user fee of \$2,900 each time the vessel arrives at a port of the United States.

“(B) This subsection does not apply to --

“(1) a vessel that is owned or operated by the United States or a State or political subdivision;

“(2) a fishing vessel, fish processing vessel, or fish tender vessel;

“(3) a vessel restricted by its certificate of inspection to operations only on rivers, lakes, bays, and sounds; or

“(4) a ferry that—

“(i) has provisions only for deck passengers or vehicles, or both;

“(ii) operates on a short run on a frequent schedule between two points over the most direct water route; and

“(iii) provides transportation services normally provided by land-based transportation modes.

“(C) The Secretary shall establish procedures for collection of fees required by this subsection.

“(2) Amounts collected under this subsection shall be credited to a special fund in the U.S. Treasury and ascribed to the Coast Guard. Of the amounts collected during fiscal year 2003, \$165 million shall be available to the U.S. Coast Guard’s ‘Operating Expenses’ account without further appropriation and without fiscal year limitation, and the amounts appropriated for fiscal year 2003 from the

general fund for the ‘Operating Expenses’ account shall be reduced by the amounts so collected up to \$165 million.

“(3) Five percent of the amounts collected under this subsection shall be credited to the account that incurs the cost and shall be available without further appropriation and without fiscal year limitation to pay the expenses of the Secretary incident to collecting such fees or charges.

“(4) Any fee required by this subsection that is not paid shall constitute a debt to the United States. The master, owner, operator, agent or charterer who fails to pay such fee is liable to the United States Government for a civil penalty of not more than \$5,000 for each day during which the fee is unpaid, up to a maximum of \$25,000 per voyage. The vessel also is liable in rem for the penalty.

“(5) In taking any action or implementing any regulation required or authorized under this subsection, and to more rapidly and efficiently bring such regulations into force, the Secretary shall take action or issue regulations without regard to--

“(A) the notice and comment provisions of section 553 of title 5, United States Code (commonly known as the Administrative Procedure Act); and

“(B) chapter 35 of title 44, United States Code (commonly known as the Paperwork Reduction Act).”.

SEC. 331. CORRECTION TO DEFINITION OF FEDERAL LAW ENFORCEMENT AGENCIES IN THE ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT OF 2002.

The Enhanced Border Security and Visa Entry Reform Act of 2002, Pub.L. 107-173, is amended in Section 2, paragraph 4(G) by striking "The Coastal Security Service." and inserting in its place "The United States Coast Guard."

TITLE IV--RENEWAL OF ADVISORY GROUPS

SEC. 401. COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.

(a) COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.—Section 4508 of title 46, United States Code, is amended—

- (1) by inserting "Safety" in the heading after "Vessel";
- (2) by inserting "Safety" in subsection (a) after "Vessel";
- (3) by striking the last sentence in subsection (b)(5);
- (4) by striking "(5 U.S.C App. 1 et seq.)" in subsection (e)(1) and inserting "(5 U.S.C. App.)"; and
- (5) by striking "of September 30, 2000" and inserting "on September 30, 2005".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 45 of title 46, United States Code, is amended by striking the item relating to section 4508 and inserting the following:

"4508. Commercial Fishing Industry Vessel Safety Advisory Committee."

SEC. 402. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.

Section 18 of the Coast Guard Authorization Act of 1991 is amended—

(1) by striking “(5 App. U.S.C.)” in the third sentence of subsection (a)(2) and inserting “(5 U.S.C. App.)”; and

(2) by striking “September 30, 2000” in subsection (h) and inserting “September 30, 2005”.

SEC. 403. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

Section 19 of the Coast Guard Authorization Act of 1991 (Public Law 102-241) is amended—

(1) by striking “(5 App. U.S.C.)” in subsection (a)(2) and inserting “(5 U.S.C. App.)”; and

(2) by striking “September 30, 2000” in subsection (g) and inserting “September 30, 2005”.

SEC. 404. GREAT LAKES PILOTAGE ADVISORY COMMITTEE.

Section 9307 of title 46, United States Code, is amended—

(1) by inserting “an association within” after “President of” in subsection (b)(2)(A); and

(2) by striking the last sentence of subsection (c)(2).

SEC. 405. NAVIGATION SAFETY ADVISORY COUNCIL.

Section 5 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking “September 30, 2000” in subsection (d) and inserting “September 30, 2005”.

SEC. 406. NATIONAL BOATING SAFETY ADVISORY COUNCIL.

Section 13110 of title 46, United States Code, is amended by striking “September 30, 2000” in subsection (e) and inserting “September 30, 2005”.

SEC. 407. TOWING SAFETY ADVISORY COMMITTEE.

The Act entitled “An Act to Establish a Towing Safety Advisory Committee in the Department of Transportation” (33 U.S.C. 1231a) is amended by striking “September 30, 2000.” in subsection (e) and inserting “September 30, 2005.”.

COMPARATIVE TYPE

(Deleted material is in brackets; new material is underlined)

14 U.S.C. § 42

§ 42. Number and distribution of commissioned officers

[(a) The] (a) Except in time of war or national emergency declared by Congress or the President, the total number of commissioned officers, excluding commissioned warrant officers, on active duty in the Coast Guard shall not exceed [6,200] 7,100. In time of war or national emergency, the Secretary shall establish the total number of commissioned officers, excluding commissioned warrant officers, on active duty in the Coast Guard.

(b) The commissioned officers on the active duty promotion list shall be distributed in grade in the following percentages, respectively: rear admiral 0.375; rear admiral (lower half) 0.375; captain 6.0; [commander 12.0; lieutenant commander 18.0.] commander 15.0; lieutenant commander 22.0. The Secretary shall prescribe the percentages applicable to the grades of lieutenant, lieutenant (junior grade), and ensign. The Secretary may, as the needs of the Coast Guard require, reduce the percentage applicable to any grade above lieutenant commander, and in order to compensate for such reduction increase correspondingly the percentage applicable to any lower grade.

(c) –(e) UNCHANGED.

14 U.S.C. § 93

§ 93. Commandant; general powers

(a) – (x) UNCHANGED.

(y) notwithstanding any other provision of law, establish a marine industry exchange program, and other employee exchange programs, under which the Coast Guard may accept the voluntary services of maritime industry and other employee exchange program participants, subject to the requirements that—.

(1) an individual performing voluntary services under this subsection shall not be considered a Federal employee except for purposes of chapter 81 of title 5, United States Code; chapter 11 of title 18, United States Code; chapter 171 of title 28, United States Code; and implementing regulations.

(2) an individual performing voluntary services under this subsection shall neither decide nor personally or substantially participate in Coast Guard decisions that are likely to affect the commercial interest of the individual's private-sector

employer or any likely competitors of the individual's private-sector employer; and

(3) nothing in this subsection shall prevent the continuation of pay and other benefits from the individual's private-sector employer or continued participation in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by the individual's private-sector employer. As used in this subsection, "private-sector employer" means the corporation or other person by which the individual was employed immediately before beginning to perform voluntary services in the maritime industry or other exchange program.

14 U.S.C. § 95a

Sec. 95a. Law enforcement powers

(a) Subject to guidelines approved by the Secretary and the Attorney General, members of the Coast Guard may, in the performance of official duties, --

(1) carry firearms;

(2) make arrests without warrant for offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe the person to be arrested has committed or is committing such felony; and

(3) seize property as provided by law.

(b) The provisions of this section are in addition to any powers conferred by law upon such officers, and not in limitation of any powers conferred by law upon such officers, or any other officers of the United States.

14 U.S.C. § 259

§ 259. Officers to be recommended for promotion

(a) - (b) UNCHANGED.

(c) After selecting the officers to be recommended for promotion, a selection board may recommend officers of particular merit, from among those officers chosen for promotion, to be placed at the top of the list of selectees promulgated by the Secretary under section 271(a) of this title. The number of officers that a board may recommend to be placed at the top of the list of selectees may not exceed the percentages set forth in subsection (b). No officer may be recommended to be placed at the top of the list of

selectees unless he or she receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

14 U.S.C. § 260

§ 260. Selection boards; reports

(a) Each board convened under section 251 of this title shall submit a report in writing, signed by all the members thereof, containing the names of the officers recommended for promotion and the names of those officers recommended to be advanced to the top of the list of selectees established by the Secretary under section 271(a) of this title.

(b) UNCHANGED.

14 U.S.C. § 271

§ 271. Promotions; appointments

(a) When the report of a board convened to recommend officers for promotion has been approved by the President, the Secretary shall place the names of all officers selected and approved on a list of selectees in the order of their seniority on the active duty promotion list. The names of all officers approved by the President and recommended by the board to be placed at the top of the list of selectees shall be placed at the top of the list of selectees in the order of seniority on the active duty promotion list.

(b) - (f) UNCHANGED.

14 U.S.C. § 281

§ 281. Revocation of commissions during first [three] five years of commissioned service

The Secretary, under such regulations as he may prescribe, may revoke the commission of any regular officer on active duty who, at the date of such revocation, has had less than [three] five years of continuous service as a commissioned officer in the Regular Coast Guard.

14 U.S.C. §283

§ 283. Regular Lieutenants; separation for failure of selection for promotion; continuation

(a) UNCHANGED.

(b)(1) When the needs of the service require, the Secretary may direct a selection board, which has been convened under section 251 of this title, to recommend for continuation on active duty for terms of not less than two nor more than four years a designated number of officers of the grade of lieutenant who would otherwise be discharged or retired under this section. When so directed, the board shall recommend for continuation on active duty those officers under consideration who are, in the opinion of the board, best qualified for continuation. Each officer so recommended may, with the approval of the Secretary, and notwithstanding subsection (a), be continued on active duty for the term recommended.

(2) Upon completion of a term under paragraph (1), an officer shall, unless selected for further continuation —

(A) except as provided in subparagraph (B), be honorably discharged with [severance] separation pay computed under section 286 of this title;

(B) in the case of an officer who has completed at least 18 years of active service on the date of discharge under subparagraph (A), be retained on active duty and retired on the last day of the month in which the officer completes 20 years of active service, unless earlier removed under another provision of law; or

(C) if, on the date specified for the officer's discharge under this section, the officer has completed at least 20 years of active service or is eligible for retirement under any law, be retired on that date.

14 U.S.C. §285

§ 285. Regular lieutenant commanders and commander; retirement for failure of selection for promotion

(a) Each officer [Each officer] of the Regular Coast Guard serving in the grade of lieutenant commander or commander, who has failed of selection for promotion to the grade of commander or captain, respectively, for the second time shall:

(1) if he has completed at least 20 years of active service or is eligible for retirement under any law on June 30 of the promotion year in which his second failure of selection occurs, be retired on that date; or

(2) if ineligible for retirement on the date specified in clause (1) be retained on active duty and retired on the last day of the month in which he completes twenty years of active service, unless earlier removed under another provision of law.

(b)(1) A lieutenant commander or commander of the Regular Coast Guard subject to discharge or retirement under subsection (a) may be continued on active duty when the Secretary directs a selection board convened under section 251 of this title to continue up to a specified number of lieutenant commanders or commanders on active duty.

(2) When so directed, the selection board shall recommend those officers who in the opinion of the board are best qualified to advance the needs and efficiency of the Coast Guard. When the recommendations of the board are approved by the Secretary, the officers recommended for continuation shall be notified that they have been recommended for continuation and offered an additional term of service that fulfills the needs of the Coast Guard.

(c)(1) An officer who holds the grade of lieutenant commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 24 years of active commissioned service unless promoted to the grade of commander of the Regular Coast Guard. An officer who holds the grade of commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 26 years of active commissioned service unless promoted to the grade of captain of the Regular Coast Guard.

(2) Unless retired or discharged under another provision of law, each officer who is continued on active duty under subsection (b), but is not subsequently promoted or continued on active duty, and is not on a list of officers recommended for continuation or for promotion to the next higher grade, shall, if eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which the period of continued service is completed.

14 U.S.C. §286

§ 286. Discharge in lieu of retirement; [severance] separation pay

(a) UNCHANGED.

[(b) Each officer discharged under this section or under section 282, 283, 284 of this title is entitled to a lump-sum payment computed by multiplying his years of active commissioned service, but not more than twelve, by two months' basic pay of the grade in which he is serving on the date of his discharge. In determining the total number of years of active service to be used as a multiplier in computing this payment, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded. the acceptance of a lump-sum payment under this section does not deprive a person of any retirement benefits from the United States. However, there shall be deducted from each of his retirement payments so much thereof as is based

on the service for which he has received payment under this section until the total amount deducted equals the amount of the lump-sum payment.]

(b) An officer of the Regular Coast Guard who is discharged under this section or section 282, 283, or 284 of this title and who has completed six or more, but less than twenty, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

(c) An officer of the Regular Coast Guard who is discharged under section 327 of this title, who has completed six or more, but less than twenty, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10, as determined under regulations promulgated by the Secretary.

(d) Notwithstanding subsections (a) or (b), an officer discharged under chapter 11 of this title for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer requested in writing or otherwise sought not to be selected for promotion, or requested removal from the list of selectees.

14 U.S.C. §286a

§ 286a. Regular warrant officers: [severance] separation pay

[(a) The severance pay of a regular warrant officer of the Coast Guard who is separated under section 580(a)(4)(A) of title 10 is computed by multiplying his years of active service that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended, but not more than 12, by twice the monthly basic pay to which he is entitled at the time of separation.

(b) The severance pay of a regular warrant officer of the Coast Guard who is separated under section 1166 of title 10 is computed by multiplying his years of active service that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended, but not more than 12, by the monthly basic pay to which he is entitled at the time of separation, unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay.

(c) For purposes of this section, a part of the year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded.]

(a) A regular warrant officer of the Coast Guard who is discharged under section 580 of title 10, and has completed six or more, but less than twenty, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

(b) A regular warrant officer of the Coast Guard who is discharged under section 1165 or 1166 of title 10, and has completed six or more, but less than twenty, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10, as determined under regulations promulgated by the Secretary.

(c) In determining a member's years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

(d) UNCHANGED.

14 U.S.C. § 288

§ 288. Regular captains; retirement

(a) Each officer of the Regular Coast Guard serving in the grade of captain whose name is not carried on an approved list of officers selected for promotion to the grade of rear admiral (lower half) shall, unless retired under some other provision of law, be retired on June 30 of the promotion year in which he, or any captain junior to him on the active duty promotion list who has not lost numbers or precedence, completes [thirty] thirty-six years of active commissioned service in the Coast Guard. An officer advanced in precedence on the active duty promotion list because of his promotion resulting from selection for promotion from below the zone is not subject to involuntary retirement under this section earlier than if he had not been selected from below the zone.

(b) UNCHANGED.

14 U.S.C. § 289

§ 289. Captains; continuation on active duty; involuntary retirement

(a) – (g) UNCHANGED.

(h) Notwithstanding subsection (g) and section 288 of this title, the Commandant may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under subsection (g) or section 288 of this title. An officer so retained, unless retired under some other provision of law, shall be retired on June 30 of that promotion year in which no action is taken to further retain the officer under this subsection.

14 U.S.C. §327

§327. Officers considered for removal; retirement or discharge; [severance] separation benefits

(a) At any time during proceedings under section 322 or 323 of this title, and before removal of an officer, the Secretary may grant a request—

(1) for voluntary retirement, if the officer is otherwise qualified therefore;
or

[(2) for honorable discharge with severance benefits under subsection (b) in those cases arising under clause (1) of section 321 of this title; or]

(2) for discharge with separation benefits under section 286(c) of this title.

[(3) for discharge with severance benefits under subsection (b) in those cases arising under clause (2) of section 321 of this title.]

(b) Each officer removed from active duty under section 326 of this title shall—

(1) if on the date of removal the officer is eligible for voluntary retirement under any law, be retired in the grade for which he would be eligible if retired at his request; or

[(2) if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged in the grade then held with severance pay computed by multiplying his years of active commissioned service, but not more than twelve, by one month's basic pay of that grade, in those cases arising under clause (1) of section 321 of this title; or]

(2) if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged with separation benefits under section 286(c) of this title, unless under regulations promulgated by the Secretary the condition under which the officer is discharged does not warrant an honorable discharge.

[(3) if on that date the officer is ineligible for voluntary retirement under any law, be discharged in the grade then held with severance pay computed by multiplying his years of active commissioned service, but not more than twelve, by one month's basic pay of that grade, in those cases arising under clause (2) of section 321 of this title, unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay.]

14 U. S. C. § 336

§ 336. United States Coast Guard Band; composition; director

(a) - (c) UNCHANGED.

(d) A member who is designated and commissioned under this section shall not be included on the active duty promotion list. He shall be promoted under section 276 of this title. However, the grade of the director may not be higher than [commander] captain.

(e) UNCHANGED.

14 U.S.C. § 374

§ 374. Critical skill training bonus

(a). The Secretary may provide a bonus, not to exceed \$20,000, to enlisted members who complete training in a skill designated as critical, provided at least four years of obligated active service remain on the member's enlistment at the time the training is completed. A bonus under this section may be paid in a single lump sum or in periodic installments.

(b) If an enlisted member voluntarily or because of misconduct does not complete his or her term of obligated active service, the Secretary may require the member to repay the United States, on a pro rata basis, all sums paid under this section. The Secretary shall charge interest on the reimbursed amount at a rate, to be determined quarterly, equal to 150 percent of the average of the yields on the 91-day Treasury bills auctioned during the preceding calendar quarter.

14 U.S.C. § 487

§ 487. Procurement and sale of stores to members and civilian employees

Such stores as the Secretary may designate may be procured and sold to members of the Coast Guard, and to the surviving spouses of such members. Such designated stores may also be procured and sold to civilian officers and employees of the United States, and to such other persons as may be specifically authorized by the Secretary, at Coast Guard stations and other units beyond the continental limits of the United States or in Alaska. For purposes of the Randolph-Sheppard Act (20 U.S.C. 107d-3), Coast Guard exchange and ships' stores systems shall be treated as though authorized by Title 10.

14 U. S. C. § 511

[§ 511. Compensatory absence of military personnel at isolated aids to navigation

The Secretary, under regulations prescribed by him, may grant compensatory absence from duty to military personnel of the Coast Guard serving in lightships and at lighthouses and other isolated aids to navigation of the Coast Guard when conditions of duty result in confinement because of isolation or in long periods of continuous duty.]

§ 511. Compensatory absence from duty for military personnel at isolated duty stations

The Secretary may prescribe regulations to grant compensatory absence from duty to military personnel of the Coast Guard serving at isolated duty stations of the Coast Guard when conditions of duty result in confinement because of isolation or in long periods of continuous duty.

14 U.S.C. § 664

§ 664. User fees

(a) A fee or charge for a service or thing of value provided by the Coast Guard shall be prescribed as provided in section 9701 of title 31.

[(b) Amounts collected by the Secretary for a service or thing of value provided by the Coast Guard shall be deposited in the general fund of the Treasury as proprietary receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.]

(b)(1) Fees and charges collected by the Secretary under this section shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities. In addition to the collection of fees and charges established under this section, the Secretary may recover appropriate collection and enforcement costs associated with delinquent payments of the fees and charges.

(2) The Secretary may employ any Federal, State, or local agency or instrumentality, or any private enterprise or business, to collect a fee or charge established under this section. A private enterprise or business selected by the Secretary to collect fees or charges—

(A) shall be subject to reasonable terms and conditions agreed to by the Secretary and the enterprise or business;

(B) shall provide appropriate accounting to the Secretary; and

(C) may not institute litigation as part of that collection.

(3) A Federal agency shall account for the agency's costs of collecting the fee or charge as a reimbursable expense, and the costs shall be credited to the account from which expended. Costs of collecting the fee or charge include the reasonable administrative, accounting, personnel, contract, equipment, supply, training, and travel expenses of calculating, assessing, collecting, enforcing, reviewing, adjusting, and reporting on the fees and charges.

14 U.S.C. § 672a

§ 672a. Long-term lease authority for lighthouse property

(a) The Commandant of the Coast Guard may lease to non-Federal entities, including private individuals, lighthouse property under the administrative control of the Coast Guard for terms not to exceed thirty years. Consideration for the use and occupancy of lighthouse property leased under this section, and for the value of any utilities and services furnished to a lessee of such property by the Commandant, may consist, in whole or in part, of non-pecuniary remuneration including, but not limited to, the improvement, alteration, restoration, rehabilitation, repair, and maintenance of the leased premises by the lessee. This section shall apply to current leases of lighthouse property under the administrative control of the Coast Guard. Section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b) shall not apply to leases issued by the Commandant under this section.

(b) Amounts received from leases made under this section shall be deposited in the Treasury.

14 U.S.C. § 680

§ 680. Definitions

In this chapter:

(1)-(4) UNCHANGED.

(5) The term “eligible entity” means any private person, corporation, firm, partnership, company, State or local government, or housing authority of a State or local government.

14 U.S.C. § 682

§ 682. [Loan Guarantees] Direct loans and loan guarantees

(a) Direct Loans.—(1) Subject to subsection (c), the Secretary may make direct loans to an eligible entity in order to provide funds to the eligible entity for the acquisition or construction of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

(2) The Secretary shall establish such terms and conditions with respect to loans made under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the period and frequency for repayment of such loans and the obligations of the obligors on such loans upon default.

[(a)] (b) Loan Guarantees.—(1) Subject to subsection [(b)] (c), the Secretary may guarantee a loan made to any person in the private sector if the proceeds of the loan are to be used by the person to acquire, or construct housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

(2) The amount of a guarantee on a loan that may be provided under paragraph (1) may not exceed the amount equal to the lesser of—

(A) 80 percent of the value of the project; or

(B) the outstanding principal of the loan.

(3) The Secretary shall establish such terms and conditions with respect to guarantees of loans under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the rights and obligations of the United States with respect to such guarantees.

(4) The funds for the loan guarantees entered into under this section shall be held in the Coast Guard Housing Fund under section 687 of this title. The Secretary is authorized to purchase mortgage insurance to guarantee loans in lieu of guaranteeing loans directly against funds held in the Coast Guard Housing Fund.

[(b)] (c) Limitation on Direct Loan and Guarantee Authority.—[Loan guarantees] Direct loans and loan guarantees may be made under this section only to the extent that appropriations of budget authority to cover their cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) are made in advance, or authority is otherwise provided in appropriations Acts. If such appropriation or other authority is provided, there may be established a financing account (as defined in section 502(7) of such Act (2 U.S.C. 661a(7))) which shall be available for the disbursement of payment of claims for payment on loan guarantees under this section and for all other cash flows to and from the Government as a result of guarantees made under this section.

§ 689. Expiration of authority

The authority to enter into a transaction under this chapter shall expire October 1, [2001] 2006.

14 U.S.C. § 709a

§ 709a. Reserve student pre-commissioning assistance program

(a) The Secretary may provide financial assistance to an eligible enlisted member of the Coast Guard Reserve, not on active duty, for expenses of the member while the member is pursuing on a full-time basis at an institution of higher education a program of education approved by the Secretary that leads to—

(1) a baccalaureate degree in not more than five academic years; or

(2) a post baccalaureate degree.

(b)(1) To be eligible for financial assistance under this section, an enlisted member of the Coast Guard Reserve must—

(A) be enrolled on a full-time basis in a program of education referred to in subsection (a) at any institution of higher education; and

(B) enter into a written agreement with the Coast Guard described in paragraph (2).

(2) A written agreement referred to in paragraph (1)(B) is an agreement between the member and the Secretary in which the member agrees—

(A) to accept an appointment as a commissioned officer in the Coast Guard Reserve, if tendered;

(B) to serve on active duty for up to five years; and

(C) under such terms and conditions as shall be prescribed by the Secretary, to serve in the Coast Guard Reserve until the eighth anniversary of the date of the appointment.

(c) Expenses for which financial assistance may be provided under this section are—

(1) tuition and fees charged by the institution of higher education involved;

(2) the cost of books;

(3) in the case of a program of education leading to a baccalaureate degree, laboratory expenses; and

(4) such other expenses as deemed appropriate by the Secretary.

(d) The amount of financial assistance provided to a member under this section shall be prescribed by the Secretary, but may not exceed \$25,000 for any academic year.

(e) Financial assistance may be provided to a member under this section for up to five consecutive academic years.

(f) A member who receives financial assistance under this section may be ordered to active duty in the Coast Guard Reserve by the Secretary to serve in a designated enlisted grade for such period as the Secretary prescribes, but not more than four years, if the member—

(1) completes the academic requirements of the program and refuses to accept an appointment as a commissioned officer in the Coast Guard Reserve when offered;

(2) fails to complete the academic requirements of the institution of higher education involved; or

(3) fails to maintain eligibility for an original appointment as a commissioned officer.

(g)(1) If a member requests to be released from the program and the request is accepted by the Secretary, or if the member fails because of misconduct to complete the period of active duty specified, or if the member fails to fulfill any term or condition of the written agreement required to be eligible for financial assistance under this section, the financial assistance shall be terminated. The member shall reimburse the United States in an amount that bears the same ratio to the total cost of the education provided to such person as the unserved portion of active duty bears to the total period of active duty such person agreed to serve. The Secretary shall have the option to order such reimbursement without first ordering the member to active duty. The Secretary shall charge interest on the reimbursed amount at a rate, to be determined quarterly, equal to 150 percent of the average of the yields on the 91-day Treasury bills auctioned during the preceding calendar quarter.

(2) The Secretary may waive the service obligated under subsection (f) of a member who is not physically qualified for appointment and who is determined to be unqualified for service as an enlisted member of the Coast Guard Reserve due to a physical or medical condition that was not the result of the member's own misconduct or grossly negligent conduct.

(3) The obligation to reimburse the United States imposed in this subsection is for all purposes a debt owed to the United States. A discharge of a person in bankruptcy under title 11, United States Code, that is entered less than five years after the date on which the person enters into the agreement described in subsection (b), does not discharge that person from a debt arising under this subsection.

(h) As used in this section, "institution of higher education" has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

14 U.S.C. § 729

§ 729. Promotion; recommendations of selection boards

(a) - (h) UNCHANGED.

(i) Reserve Officer whose name is on a list of selectees for promotion shall, unless that officer's promotion is lawfully withheld, be tendered an appointment in the next higher grade on the date a vacancy occurs, or as soon thereafter as practicable, in the grade to which the officer was selected for promotion, or if promotion was determined in accordance with a running mate system, at the same time, or as soon thereafter as practicable, as that officer's running mate is tendered a similar appointment.

14 U.S.C. § 731

§ 731. Placement in promotion zone; consideration for promotion

Subject to the eligibility requirements of this subchapter, a Reserve officer shall be placed in a promotion zone when that officer's running mate is placed in a promotion zone and shall, in accordance with the provisions of this subchapter, be considered for promotion at approximately the same time as that officer's running mate or as soon thereafter as practicable [.] , or in the event that promotion is not determined in accordance with a running mate system, then a Reserve officer becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he or she completes the following amount of service computed from the date of rank in the grade in which he or she is serving:

- (1) two years in the grade of lieutenant (junior grade);
- (2) three years in the grade of lieutenant;
- (3) four years in the grade of lieutenant commander;
- (4) four years in the grade of commander; and

(5) three years in the grade of captain.

14 U.S.C. § 736

§ 736. Date of rank upon promotion; entitlement to pay

(a) When a Reserve officer is promoted to the next higher grade under this subchapter, the date of rank shall be the date of appointment in that grade, unless the promotion was determined in accordance with a running mate system, in which event the same date of rank shall be assigned as that assigned to the officer's running mate. A Reserve officer so promoted shall be allowed the pay and allowances of the higher grade for duty performed from the date of the officer's appointment thereto.

(b) – (c) UNCHANGED.

14 U.S.C. § 821

§ 821. Administration

(a) The Coast Guard Auxiliary is a nonmilitary organization administered by the Commandant under the Direction of the Secretary. For command, control, and administrative purposes, the Auxiliary shall include such organizational elements and units as are approved by the Commandant, including but not limited to, a national board and staff (to be known as the "Auxiliary headquarters unit"), districts, regions, divisions, flotillas, and other organizational elements and units, and such organizational elements and units shall be considered instrumentalities of the United States for taxation purposes. The Auxiliary organization and its officers shall have such rights, privileges, powers, and duties as may be granted to them by the Commandant, consistent with this title and other applicable provisions of law. The Commandant may delegate to officers of the Auxiliary the authority vested in the Commandant by this section, in the manner and to the extent the Commandant considers necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary, and the Auxiliary and each organizational element and unit shall be deemed to be instrumentalities and political subdivisions of the United States for taxation purposes and for those exemptions as provided under section 107 of title 4, United States Code.

(b)-(c) UNCHANGED

(d) Subject to the approval of the Commandant—(1) The Coast Guard Auxiliary and each organizational element and unit (whether or not incorporated), shall have the power to acquire, own, hold, lease, encumber, mortgage, transfer, and dispose of personal property for the purposes set forth in section 822. Personal property owned by the Auxiliary or an Auxiliary unit, or any element thereof, whether or not incorporated, shall at all times be deemed to be property of the United States for the purposes of the statutes

enumerated in subsection (b)(1)-(6) while such property is being used by or made exclusively available to the Auxiliary as provided in section 822.

(2) Personal property owned by the Auxiliary or an Auxiliary unit or any element or unit thereof, shall not be considered property of the United States for any other purpose or under any other provision of law except as provided in sections 821 through 832 and section 641 of this title. The necessary expenses of operation, maintenance and repair or replacement of such property may be reimbursed using appropriated funds.

(3) For purposes of this subsection, personal property includes, but is not limited to, motor boats, yachts, aircraft, radio stations, motorized vehicles, trailers, or other equipment.

14 U.S.C. § 823a

(a) UNCHANGED.

(b) A member of the Auxiliary while assigned to duty shall be deemed to be a Federal employee only for purposes of the following:

(1) - (8) UNCHANGED.

(9) On or after January 1, 2001, Public Law 104-208, Section 651.

(c) UNCHANGED.

33 U.S.C. § 409

Rivers and Harbors Appropriations Act, 1899 (33 U.S.C. § 409)

§ 409. Obstruction of navigable waters by vessels; floating timber; marking and removal of sunken vessels

It shall not be lawful to tie up or anchor vessels or other craft in navigable channels in such a manner as to prevent or obstruct the passage of other vessels or craft; or to sink, or permit or cause to be sunk, vessels or other craft in navigable channels; or to float loose timber and logs, or to float what is known as "sack rafts of timber and logs" in streams or channels actually navigated by steamboats in such manner as to obstruct, impede, or endanger navigation. And whenever a vessel, raft or other craft is wrecked and sunk in a navigable channel, it shall be the duty of the owner, lessee, or operator of such sunken craft to immediately mark it with a buoy or beacon during the [day and] day and, unless otherwise authorized by the Commandant of the Coast Guard, a [lighted lantern] light at night, and to maintain such marks until the sunken craft is removed or

abandoned, and the neglect or failure of the said owner, lessee, or operator so to do shall be unlawful; and it shall be the duty of the owner, lessee, or operator of such sunken craft to commence the immediate removal of the same, and prosecute such removal diligently, and failure to do so shall be considered as an abandonment of such craft, and subject the same to removal by the United States as provided for in sections 411 to 416, 418, and 502 of this title.

33 U.S.C. § 495
Section 5 of the Bridge Act of 1906

§ 495. Violations of orders respecting bridges and accessory works

(a) UNCHANGED.

(b) Civil penalties for violation; separate offenses; notice and hearing; assessment, collection, and remission; civil actions

Whoever violates any provision of sections 491 to 498 of this title, or any order issued under sections 491 to 498 of this title, shall be liable to a civil penalty of not more than [~~\$1,000~~] \$25,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

33 U.S.C. § 499
Rivers and Harbors Appropriations Act, 1894

§ 499. Regulations for drawbridges

(a) – (b) UNCHANGED.

(c) Civil penalties for violation; notice and hearing; assessment, collection, and remission; civil actions

Whoever violates any rule or regulation issued under subsection (a) or (b) of this section, shall be liable to a civil penalty of not more than [~~\$1,000~~] \$25,000. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his

discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

33 U.S.C. § 502
Rivers and Harbors Appropriations Act, 1899

§ Alteration, removal, or repair of bridge or accessory obstructions to navigation

(a) – (b) UNCHANGED.

(c) Civil penalties for violation; separate offenses; notice and hearing; assessment, collection, and remission; civil actions

Whoever violates any provision of this section, or any order issued under this section, shall be liable to a civil penalty of not more than [~~\$1,000~~] \$25,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

33 U.S.C. § 518
[Sec. 8 of the Act of June 21, 1940]

§ 518. Authorization of appropriations

(a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter.

(b) In addition to other uses permitted by law, upon completion of a bridge alteration project, unexpended funds previously appropriated or otherwise available for the completed project may be used to pay the Federal share of the design and construction costs for other bridge alteration projects authorized under this Act.

33 U.S.C. § 533
General Bridge Act of 1946

§ 533. Penalties for violations

(a) UNCHANGED.

(b) Civil penalties for violation; separate offenses; notice and hearing; assessment, collection, and remission; civil actions

Whoever violates any provision of this subchapter, or any order issued under this subchapter, shall be liable to a civil penalty of not more than [\$1,000] \$25,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

33 U.S.C. §1203

Vessel Bridge-to-Bridge Radiotelephone Act, Section 4(b)

§ 1203. Radiotelephone requirement

(a) UNCHANGED.

(b) The radiotelephone required by subsection (a) of this section shall be carried on board the described vessels, dredges, and floating plants upon the navigable waters of the United States [inside the lines established pursuant to section 151 of this title], which includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.

33 U.S.C. § 1223

Ports and Waterways Safety Act Pub. L. 92-340 (33 U.S.C. 1223)

§ 4. Vessel operating requirements

(a) In general

Subject to the requirements of section 1224 of this title, the Secretary—

(1) – (3) UNCHANGED

(4) may control vessel traffic in areas subject to the jurisdiction of the United States which the Secretary determines to be hazardous, or under conditions of reduced visibility, adverse weather, vessel congestion, or other hazardous circumstances by--

- (A) specifying times of entry, movement, or departure;
- (B) establishing vessel traffic routing schemes;
- (C) establishing vessel size, speed, draft limitations and vessel operating conditions; and
- (D) restricting operation, in any hazardous area or under hazardous conditions, to vessels which have particular operating characteristics or capabilities which he considers necessary for safe operation under the circumstances; [and]

(5) may require the receipt of prearrival messages from any vessel, destined for a port or place subject to the jurisdiction of the United States, in sufficient time to permit advance vessel traffic planning prior to port entry, which shall include any information which is not already a matter of record and which the Secretary determines necessary for the control of the vessel and the safety of the port or the marine environment[.]; and

(6) may carry out the functions under paragraph (a)(1) of this section, at the Secretary's discretion and on such terms and conditions as the Secretary deems appropriate, either solely, or in cooperation with a public or private agency, authority, association, institution, corporation, organization or persons. Such non-governmental entities shall not carry out an inherently governmental function. As used in this subparagraph, the term "inherently governmental function" means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of judgment in making a decision for the Government;

(7) may, for the purpose of carrying out the Secretary's functions under paragraph (a)(1) of this section, convey or lease real property under the administrative control of the Coast Guard to public or private agencies, authorities, associations, institutions, corporations, organizations, or persons for such consideration and upon such terms and conditions as the Secretary considers appropriate. The term of any such lease shall not exceed 20 years.

(A) Amounts collected under this paragraph shall be credited to a special fund in the U.S. Treasury and ascribed to the U.S. Coast Guard. The amounts collected shall be available to the U.S. Coast Guard's 'Operating Expenses' account without further appropriation and without fiscal year limitation, and the amounts appropriated from the general fund for the 'Operating Expenses' account shall be reduced by the amounts so collected.

(B)Any such conveyance or lease of real property under this paragraph is not subject to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.); section 321 of the Act of June 30, 1932 (47 Stat. 412, chapter 314; 40 U.S.C. 303b); or the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.).

* * *

33 U.S.C. §1231a

§ 1231a. Towing Safety Advisory Committee

(a) – (d)

UNCHANGED.

(e) Termination

Unless extended by subsequent Act of Congress, the Committee shall terminate on [September 30, 2000] September 30, 2005.

33 U.S.C. § 1321

Oil Pollution Act of 1990 Pub. L. 101-380 (33 U.S.C. § 1321)

§ 4202. National planning and response system.

(a) IN GENERAL—UNCHANGED

(1) – (5) UNCHANGED

(6) by adding at the end of the following:

(2) – (4) UNCHANGED

**(5) TANK VESSEL, NON-TANK VESSEL, AND FACILITY
RESPONSE PLANS-**

(A) The President shall issue regulations which require an owner or operator of a tank vessel, non-tank vessel, or facility described in [subparagraph (B)] subparagraph (C) to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil or a hazardous substance.

(B) The Secretary of the Department in which the Coast Guard is operating may issue regulations which require an owner or operator of a tank vessel, non-tank vessel, or facility described in subparagraph (C) to prepare and submit to the Secretary a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of a noxious liquid substance. For purposes of this paragraph, the term “noxious liquid substance” shall have the same meaning as in the MARPOL Protocol defined in section 2(a)(3) of the Act to Prevent Pollution from Ships, Pub. L. 96-478, as that section may from time to time be amended.

[(B)] (C) The tank vessels, non-tank vessels, and facilities referred to in [subparagraph A] subparagraphs (A) and (B) are the following:

(i) A tank vessel, as defined under section 2101 of title 46, United States Code.

(ii) A non-tank vessel as defined under section 1001 of this Act.

(iii) An offshore facility.

(iv) An onshore facility that, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging into or on the navigable waters, adjoining shorelines, or the exclusive economic zone.

[(C)] (D) A response plan required under this paragraph shall—

(i) be consistent with the requirements of the National Contingency Plan and Area Contingency Plans;

(ii) identify the qualified individual having full authority to implement removal actions, and require immediate communications between that individual and the appropriate Federal official and the persons providing personnel and equipment pursuant to clause (iii);

(iii) identify, and ensure by contract or other means approved by the President, the availability of private personnel and equipment necessary to remove to the maximum extent practicable a worst case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such a discharge;

(iv) describe the training, equipment testing, periodic unannounced drills, and response actions of persons on the vessel or at the facility, to be carried out under the plan to ensure the safety of the vessel or facility and to mitigate or prevent the discharge, or the substantial threat of a discharge;

(v) be updated periodically; and

(vi) be resubmitted for approval of each significant change.

[D] (E) With respect to any response plan submitted under this paragraph for an onshore facility that, because of its location, could reasonably be expected to cause significant and substantial harm to the environment by discharging into or on the navigable waters or adjoining shorelines or the exclusive economic zone, and with respect to each response plan submitted under this paragraph for a tank vessel, non-tank vessel, or offshore facility, the President shall—

(i) promptly review such response plan;

(ii) require amendments to any plan that does not meet the requirements of this paragraph;

(iii) approve any plan that meets the requirements of this paragraph; and

(iv) review each plan periodically thereafter.

[E] (F) A tank vessel, non-tank vessel, offshore facility, or onshore facility required to prepare a response plan under this subsection may not handle, store, or transport oil unless—

(i) in the case of a tank vessel, non-tank vessel, offshore facility, or onshore facility for which a response plan is reviewed under [subparagraph D] subparagraph E, the plan has been approved by the President; and

(ii) the vessel or facility is operating in compliance with the plan.

[F] (G) Notwithstanding [subparagraph E] subparagraph E, the President may authorize a tank vessel, non-tank vessel, offshore facility, or onshore facility that handles, stores, or transports oil to operate without a response plan approved under this paragraph, until not later than 2 years after the date of the submission to the President of a plan for the tank vessel, non-tank vessel, or facility, if the owner or operator certifies that

the owner or operator has ensured by contract or other means approved by the President the availability of private personnel and equipment necessary to respond, to the maximum extent practicable, to a worst case discharge or a substantial threat of such a discharge.

[G] ~~(H)~~ The owner or operator of a tank vessel, non-tank vessel, offshore facility, or onshore facility may not claim as a defense to liability under title I of the Oil Pollution Act of 1990 that the owner or operator was acting in accordance with an approved response plan.

[H] ~~(I)~~ The Secretary shall maintain, in the Vessel Identification System established under chapter 125 of title 46, United States Code, the dates of approval and review of a response plan under this paragraph for each tank vessel and non-tank vessel that is a vessel of the United States.

(6) EQUIPMENT REQUIREMENTS AND INSPECTION.- [Not later than 2 years after the date of enactment of this section, the President shall require-] The President may require-

(A) periodic inspection of containment booms, skimmers, vessels, and other major equipment used to remove discharges; and

(B) vessels operating on navigable waters and carrying oil or a hazardous substance in bulk as cargo, and non-tank vessels carrying oil of any kind as fuel for main propulsion, to carry appropriate removal equipment that employs the best technology economically feasible and that is compatible with the safe operation of the vessel.

(7) AREA DRILLS.- The President shall periodically conduct drills for removal capability, without prior notice, in areas for which Area Contingency Plans are required under this subsection and under relevant tank vessel, non-tank vessel, and facility response plans. The drills may include participation by Federal, State, and local agencies, the owners and operators of vessels and facilities in the area, and private industry. The President may publish annual reports on these drills, including assessments of the effectiveness of the plans and a list of amendments made to improve plans.

* * *

33 U.S.C. §2073

§ 2073. Navigation Safety Advisory Council

(a) – (c) UNCHANGED.

(d) Termination of Council